

	Function: DEVELOPMENT SERVICES	Adopted: 6 th June 2012 Resolution No.: C119:12
	Policy Number: DEV006	Last Review: 2 nd March 2023 Resolution No.: C54:0322
	Version Number: 5	Next Review: As Required
OUTDOOR TRADING POLICY		

Policy Statement

1. Introduction

- 1.1. Copper Coast Council (Council) recognizes the importance of outdoor trading, accessible dining and modern, vibrant and dynamic business precincts, adding economic prosperity to the popular tourist locality.
- 1.2. Council encourages the use of public space (including footpaths, reserves, roads, car parking bays and other suitably identified and appropriate locations) for outdoor trading activities (trading goods and dining) to enhance street life.
- 1.3. The Outdoor Trading Policy (Policy) regulates commercial and non-commercial outdoor trading activities, formalizing the use of a public space by an external party for business and trading purposes in a manner that maximises the benefits to traders, residents and visitors whilst ensuring maximum safety and convenience for patrons, pedestrians and vehicle occupants.

2. Scope

- 2.1. The Outdoor Trading Policy outlines Council's position, the framework and criteria which Outdoor Trading Applications (Applications) are assessed against and Outdoor Trading Permits (permits) are required to comply with.
- 2.2. Outdoor trading is encouraged where the design compliments the existing built form and enhances the character of locality (surrounding streetscape). Businesses, traders, restaurants and cafes wishing to operate from footpaths, reserves and roads, car parking and other public space, must make application to Council prior to establishing and operating an outdoor trading area.
- 2.3. Council will take into consideration the needs of traders, residents and visitors whilst ensuring maximum safety and convenience for patrons, pedestrians and vehicle occupants and also the competing needs and interests of business owners and pedestrians by permitting outdoor trading that improves the usage, quality and image of the towns within the public realm.
- 2.4. Generally, outdoor trading is located on the footpath in front of an existing business. Council will consider extension over one (1) or more adjoining shop premise frontage and to other adjoining areas such as car parking bays or reserves after consultation with the affected adjoining businesses where applicable.
- 2.5. Council will ensure that all outdoor trading is established, operated and maintained in an appropriate and equitable manner and for the purpose approved.

3. Applicable Legislation

- 3.1. The following legislation applies to this Policy:
 - Planning, Development and Infrastructure Act 2016
 - Local Government Act 1999
 - Disability Discrimination Act 1992.
- 3.2. This Policy is not a mandatory requirement but essential for good governance.

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Lifestyle location of choice

4. Integration with Corporate Objectives

4.1. This Policy supports Council's Strategic Plan 2019 – 2029

4.1.1. Environmental Objective - Sustainability

Goal 2 - To responsibly manage the natural and built environment to ensure its sustainability and diversity to the community.

- 2.1 Planning

To establish and implement planning and development policies in accordance with legislation, economic and community demand.

- 2.8 Alternative Transport

To establish and maintain safe routes for pedestrians, cyclists and other modes of alternative transport.

5. Definitions

For the purposes of this Policy, the following definitions apply:

- 5.1. **Chief Executive Officer (CEO)** means the appointed Chief Executive Officer under Section 96 of the Local Government Act 1999 and includes any person acting or delegated by the Chief Executive Officer's under Sections 100 and 101 of the Local Government Act 1999.
- 5.2. **Council** means the Copper Coast Council and any delegate of the Council.
- 5.3. **Enclosures** mean vertical structures that partly enclose an outdoor dining area, such as plastic, canvas or glass screens, used to delineate an outdoor dining area and preventing incidents such as movable items encroaching onto adjoining areas.
- 5.4. **Ensemble** means a part or group of complementary parts of the outdoor dining area.
- 5.5. **Footpath** means the area between the street boundary of the property (often the edge of the building where the building is constructed on the street boundary) and the kerb of the street. Where there is no kerb it means the area between the street boundary of the property and the sealed edge of the road.
- 5.6. **Footpath clearance** means the area shown on the approved plan attached to the Outdoor Trading Permit to be kept clear of ALL associated items such as umbrellas, tables and chairs, planter boxes to allow safe movement of patrons and pedestrians.
- 5.7. **Kerb setback** means the distance between ensembles of an outdoor dining area and the inside of the kerb facing the road.
- 5.8. **Local Government Land** means land that is under the care and control of Council, including public footpaths and road reserves.
- 5.9. **Outdoor Dining** means the use of the public realm for the purpose of extending the services of premises whose main function is for the provision of food and beverages to the public. Outdoor dining includes the placement of tables and chairs and ancillary furniture such as planter boxes and bollards in the public realm.
- 5.10. **Outdoor Trading** means the use of the public footpath for the purpose of extending the services of premises main function is for trading of goods or provision of food and beverages to the public. Such premises include shops, restaurants, cafes, bars, delis and other food outlets. Outdoor trading should be directly associated with the business that holds the Permit and only operate when the premise is open for trade.
- 5.11. **Outdoor Trading Area** means the area where outdoor trading is permitted as shown on the approved plan attached to the Outdoor Trading Permit.
- 5.12. **Permanent umbrellas** mean umbrellas that are installed onto the pavement for extended durations and are not removed from the pavement on a daily basis.
- 5.13. **Public Space** means a place accessible to all members of the public for their use and enjoyment at no cost.
- 5.14. **Removable umbrellas** mean umbrellas which are placed and removed from the pavement on a daily basis.
- 5.15. **Road** has the same meaning as the Local Government Act 1999, and extends from property boundary to property boundary, including footpaths, carriageway and verges.

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6. Application

6.1. General

Application for an Outdoor Trading Permit (permit) must be in accordance with the Policy and Development Approval (if required). Council will assess each Outdoor Trading Application (application) on its own merit and against the Technical Criteria attached to this Policy (*refer Attachment A*).

Establishment and operation of outdoor trading area in a public space shall not occur until a permit is issued by Council in accordance with Section 222 of the Local Government Act for the use of the land for the purpose of outdoor trading; and Section 221 of the Local Government Act in the event that an encroachment is also proposed as part of the outdoor trading application.

The use of public land for outdoor trading may be restricted, through reduced operating hours or seating capacity or trading area, where there is a potential or actual impact on the amenity of the area or history of complaints. Council, as landlord of the public realm, can condition, modify or revoke a permit as it sees necessary.

6.2. Management

a. Responsibility

The Permit holder must take full responsibility for the care and control, appearance, maintenance and effect on other street life. In the case of outdoor dining, cleanliness and hygiene is essential, requiring prompt clearing and cleaning of tables and locality as patrons depart and place chairs in position in readiness to welcome new patrons.

b. Maintaining Amenity

The use of public land for outdoor trading may be restricted through reduced operating hours or seating capacity or trading area, where there is actual or potential undue impact on amenity of the area or a history of complaints. As landlord of the public realm, Council can condition, modify or revoke a permit as it sees necessary.

c. Maintenance and Cleaning

The Permit holder must comply with permit conditions, health and maintenance aspects at all times. Requirements include:

- Tables, chairs and other furniture or equipment must be arranged as per the permit approval layout;
- Street furniture, including plants must be kept in a well maintained condition;
- The outdoor trading area must be regularly cleaned during all hours of operation for both hygiene reasons and presenting continual well cared for image. Permit holders are responsible for cleaning furniture, pavement and adjacent footpath.

Failure to comply with the permit conditions may result in the permit being either revoked or not renewed.

d. Use of Alfresco or Café Blinds

Alfresco or Café Blinds use is ***not*** permitted without Council approval, and, if permitted, will be assessed to the provisions set out in *Clause 3.9 of Attachment A* to this Policy. Coastal areas experience windy conditions which at times render outdoor trading areas not suitable for use by patrons. Council has the right to order permanent removal of blinds when it is considered to have a detrimental impact on pedestrian flow or amenity of the area.

e. Removal of Non Fixed Furniture

Removable items such as tables, chairs, umbrellas, gas heaters and other furniture (except approved permanent fixtures such as fixed tables, planter boxes or glass screens) must be removed from the public space and securely stored out of sight at the close of business each day, for the following reasons:

- outdoor trading furniture unnecessarily and uncontrollably occupies public space when not in use;
- creates clutter and limits public space for markets, events, audiences of parades;
- presents obstacles for the vision impaired when not in use;
- furniture left outside rapidly deteriorates and collects dirt and grime; and
- prevents industrial cleaning of public space.

Council may require outdoor trading areas to be cleared of furniture, infrastructure and fixed items from time to time. Council will give three (3) weeks' notice for Council approved street and community events and civil works where possible, but shorter time frames may occur in unforeseeable circumstances.

Removable items must be removed within 24 hours of Council or other Authority notification to enable street and footpath cleaning, servicing and maintenance work. Where a business ceases to operate, the outdoor trading areas must be cleared within three (3) weeks at the Permit holder's expense. If the area is not cleared in the required timeframe, under Section 144 of the Local Government Act, Council will arrange to clear the area and forward associated costs to the Permit holder.

f. Stormwater Management

The Environmental Protection Authority's *Storm Water Pollution Prevention Code of General Practice for the Community* requires that no waste water or wash-down water from the cleaning of open air stalls, shop frontages, outdoor dining areas and the like is discharged into the stormwater system. Operators must dry sweep, collect and dispose of dust and waste materials and then wet clean by mopping with the waste water discharged into the sewer.

6.3. Changes to the Public Realm

In some instances, an applicant may propose to change the public realm to accommodate or improve outdoor trading activity, such as widening of the footpath or relocation of existing public infrastructure. In areas where the availability of on-street carparking is limited, the inclusion of a parking bay(s) in the outdoor trading area may not be supported. All applications will be assessed on its merit and may require a survey of available car parking spaces in the area.

Request to change the public realm must be clearly stated in the application and may require Development Approval under the Planning, Development and Infrastructure Act 2016 (refer to section 6.4 below). Changes to the public realm will only be approved if carried out to Council standards with all associated costs are borne by the applicant, including:

- Street services survey
- Carparking survey
- Engineering concept designs
- Cost of design and construction
- Cost of design and installation of public infrastructure items (including bollards).

Outdoor trading areas should not be isolated from, but form part of the public realm. The trading area should contribute to the street environment and street live and not take away from it. Changes where the outdoor trading area is effectively removed from the public realm by means of enclosures to prevent the general public entering the trading space from the street or footpath is generally not supported.

The fixed assets created will be owned by Council, unless otherwise agreed.

Where the approved outdoor trading area use ceases to exist, due to withdrawal or cancellation of permit, the Permit holder must ensure that the outdoor trading area is reinstated to its original form unless otherwise agreed to by Council.

6.4. How to Apply for an Outdoor Trading Permit

The establishment of a permanent outdoor trading area may constitute a Change of Use and require a Development Approval in accordance with the Planning, Development and Infrastructure Act 2016.

Installation of fixed screens, full height enclosures (e.g. plastic screens) and permanent structures (e.g. shade structures) may require a Development Approval. Fixed outdoor signage will also require Development Approval. This excludes moveable signs as they are subject to Council's By-Law. For further information, contact Council's Development Services Department.

All outdoor trading requires an Outdoor Trading Permit. The owner or operator of the facility must lodge an application for a Permit with the following supporting information:

- a) Application form - completed.
- b) Site Plan – drawn to a professional standard and scale not less than 1:100 showing existing conditions, footpath width, location of building lines, the type of abutting properties, existing trees, light poles, signs, street furniture, pits, fire hydrants, car parking and other features. Any dimensions affecting the layout of the trading area to be indicated on the plan, including width of footpath from outside face of kerb to building line and length of building frontage associated with the business. In circumstances, it may be required to place the footpath along the shop front away from the kerb, which the footpath width measured from the most outer part of the building must be shown on the site plan.
- c) Details of proposed external lighting, showing types of fixtures and placement.
- d) Details of advertising in form of a photograph or graphic design drawing of the logo of the proposed outdoor trading facility and a clear indication of its size and location on screens and umbrellas.
- e) Public and Product Liability Insurance – current Certificate of Currency.

6.5. Renewal of the Outdoor Trading Permit

An Outdoor Trading Permit is valid for three (3) years from the date of approval. An Outdoor Trading Permit must be renewed prior to expiring.

6.6. Alterations to an Outdoor Trading Permit

An application must be lodged for alterations to an existing permit. Minor changes to an approved layout (e.g. change of furniture style, new planter boxes etc.) will be added to the existing permit which additional fees may apply.

To alter an existing permit, the Permit holder must submit the following:

- a) A written statement outlining the proposed changes ('before' and 'after').
- b) Any supporting information (e.g. specifications or photos of proposed items).
- c) A location plan outlining existing and proposed layout.

Where significant changes to an existing layout is proposed, a new application will be required.

6.7. Cancellation of an Outdoor Trading Permit

An Outdoor Trading Permit can be cancelled or amended if:

- a) The Permit holder fails to comply with the permit conditions; or
- b) Conditions change affecting the outdoor trading area in its particular location, such as increased risk to health or safety; or
- c) Other reasons requiring cancellation, streetscape upgrade or refurbishment.

In the event that a permit is cancelled by either Council or by the Permit holder, no refund of fees will apply.

6.8. Public and Product Liability Insurance

Permit holders must take out and keep current a public and product liability insurance policy for a minimum of twenty million dollars (\$20,000,000) noting specifically the Copper Coast Council as an interested party. A copy of the Certificate of Currency for the policy must accompany the application or renewal of an Outdoor Trading Permit; and undertake risk assessments.

6.9. Fees and Charges

Fees are calculated and payable depending on specific scenarios as follows:

Scenario 1: Outdoor trading area confined to the footpath or any other public space *other than a car parking bay* (refer to Illustration 1 below).

In this scenario fees are paid in accordance 'Outdoor Trading' for 'Licensed or unlicensed premises, shops, cafes and the like' for the area occupied in Council's Schedule of Fees and Charges at the time when application is made for a permit or for the renewal of an existing permit. The application fees cover the right to use the footpath as shown on the approved plan for a period of three (3) years.

To remove any doubt, the first payment of the fees that are payable every three (3) years are paid at the time when application is made and then every three (3) years after that.

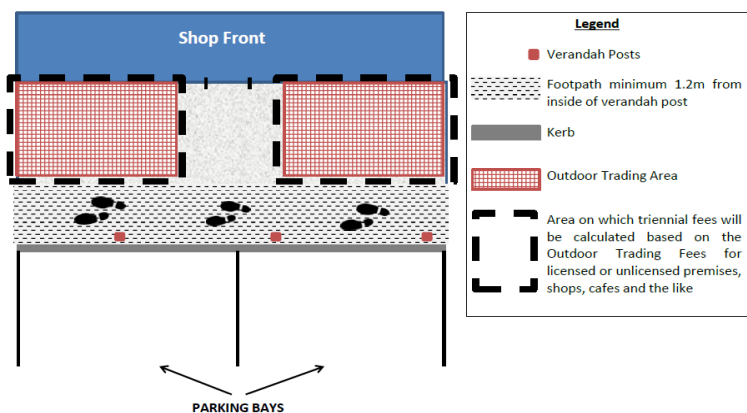


Illustration 1:

Outdoor trading area confined to footpath or any other public space other than a car parking bay

Scenario 2: Outdoor trading area confined to a car parking bay and where the pedestrian traffic flow is in no way affected or altered (refer to Illustration 2 below).

Where the outdoor trading area is confined to a car parking bay and where the pedestrian traffic flow is in no way affected or altered to ensure that the outdoor trading area still forms part of the public realm, the footpath fees are calculated and paid as follows:

(i) A once-off payment in accordance with Council Fees and Charges Schedule 'Annual License Fee per car park within a road reserve' or 'Annual License Fee for carpark not in road reserve' at the time when application is made for a permit. The once-off payment covers the right to utilize the car parking for commercial purposes; plus

(ii) Fees paid in accordance with Council Fees and Charges Schedule 'Outdoor Trading' for 'Licensed or unlicensed premises, shops, cafes and the like' for the area occupied at the time when application is made for a permit or for the renewal of an existing permit. The application fees cover the right to use the footpath as shown on the approved plan for a period of three (3) years.

To remove any doubt, the fees calculated in terms of (i) and (ii) above are paid at the time of application and the fees calculated in (ii) above are paid every three (3) years after that.

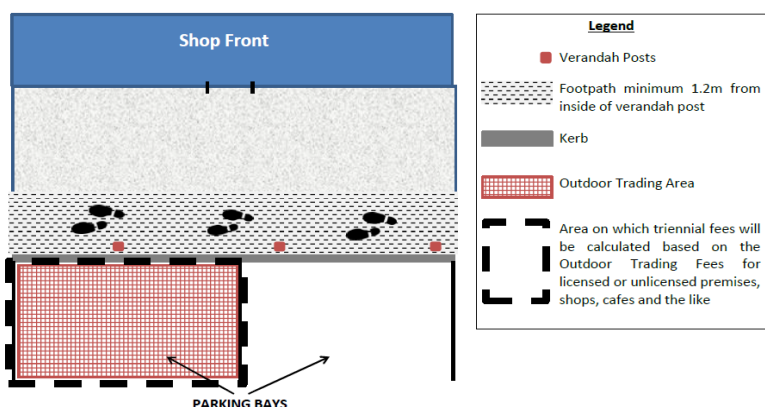


Illustration 2:

Outdoor trading area confined to a car parking bay and where the pedestrian traffic flow is in no way affected or altered

Scenario 3: Outdoor trading area confined to the footpath area and a car parking bay and where the pedestrian traffic flow is in no way affected or altered (refer to Illustration 3 below).

Where the outdoor trading area is confined to part of the footpath and a car parking bay and where the pedestrian traffic flow is in no way affected or altered to ensure that the outdoor trading area still forms part of the public realm, the footpath fees are calculated and paid as follows:

- (i) A once-off payment in accordance with Councils Fees and Charges Schedule ‘Annual License Fee per car park within a road reserve’ or ‘Annual License Fee for carpark not in road reserve’ at the time when application is made for a permit. The once-off payment covers the right to utilize the car parking for commercial purposes; plus
- (ii) Fees paid in accordance with Councils Fees and Charges Schedule ‘Outdoor Trading’ for ‘Licensed or unlicensed premises, shops, cafes and the like’ for the total area at the time when application is made for a permit or for the renewal of an existing permit. The application fees cover the right to use the footpath and the ongoing use of the carparking bay as shown on the approved plan for a period of three (3) years.

To remove any doubt, the fees calculated in terms of (i) and (ii) above are paid at the time when application is made and the fees calculated in (ii) above then every three (3) years after that.

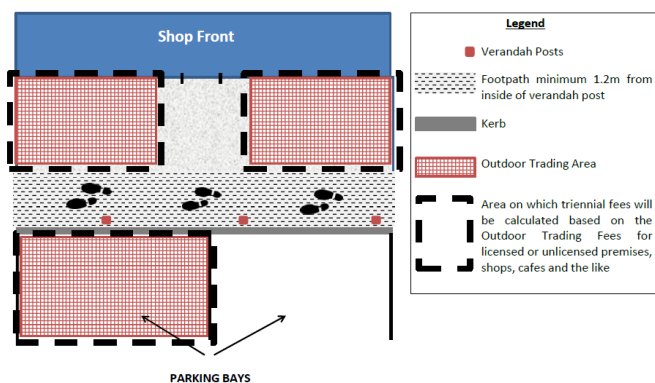


Illustration 3: Outdoor trading area confined to a portion of the footpath and car parking bay and where the pedestrian traffic flow is in no way affected or altered

Scenario 4: Outdoor trading area includes a car parking bay and where the pedestrian traffic flow is affected and the outdoor trading area enclosed (refer to Illustration 4 below)

Where the outdoor trading area includes a car parking bay and where the pedestrian traffic flow is affected and the outdoor trading area closed in a manner which causes the outdoor trading area to be no longer part of the public realm, the outdoor trading fees are calculated and paid as follows:

- (i) A once-off payment in accordance with Councils Fees and Charges Schedule ‘Shortfall of carparking requirements (per space)’ as reflected under ‘Carparking Contribution’ at the time when application is made for a permit. This once-off payment covers the right to utilize the car parking for commercial purposes; plus
- (ii) An annual payment for the whole of the affected area as shown in the figure below calculated and paid in accordance with fees for ‘Outdoor Trading’ for a *licensed premise*. It should be noted that this is an annual fee payable as the scenario above is effectively an extension of the building.

To remove any doubt, the fees calculated in terms of (i) and (ii) above are paid at the time when application is made and the fees calculated in (ii) above then annually after that.

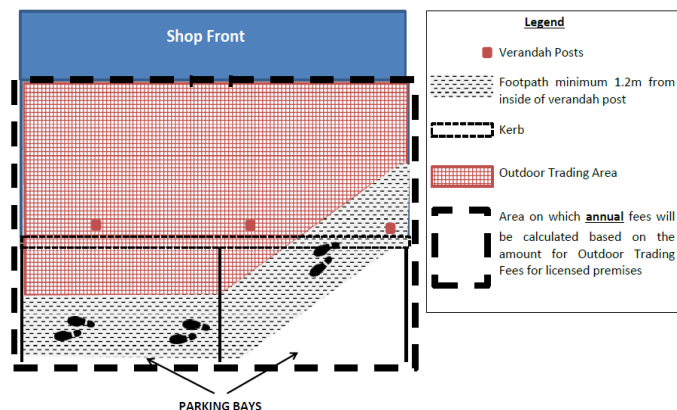


Illustration 4: Outdoor trading area includes a car parking bay and where the pedestrian traffic flow is affected and the outdoor trading area enclosed.

7. Delegation

- 7.1. Pursuant to Section 44 of the Local Government Act 1999, Council delegates to the Chief Executive Officer authority to administer Council's policies.
- 7.2. In terms of this Policy, the Director Development Services, or Authorised Officer with delegated authority, to approve Outdoor Trading Permits after consultation with Council's Director Development Services.

8. Adoption and Review



- 8.1. This Policy shall be reviewed every four (4) years, or more frequently, if legislation or Council requires by the Development Services Department and a report shall provide to Council for consideration and adoption.

9. Records Management

- 9.1. Official records will be retained and stored in accordance with Council's adopted Records Management Policy as required by Section 125 of the Local Government Act 1999.

10. Availability of Policy

- 10.1. This Policy will be available for inspection without charge at the Council's Principal Office during normal business hours and via the Council's website www.coppercoast.sa.gov.au.
- 10.2. A copy of this Policy may be obtained on payment of a fee in accordance with Councils' Schedule of Fees and Charges.

Signed		
	Mayor	Chief Executive Officer
Date		

TECHNICAL CRITERIA
FOR THE ESTABLISHMENT OF
OUTDOOR TRADING AREA

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Each Outdoor Trading Permit application received will be assessed on the following criteria:

1. General Principles

1.1. Boundaries of permitted area

All outdoor trading items shall be positioned within the permitted boundaries and remain there as part of the permit holder's responsibility.

1.2. Safety

For outdoor trading areas to be approved, applicants will need to meet requirements for public access and circulation including for people with disabilities and diner safety in accordance with AS/NZS 1428.1. Council will assess each proposed outdoor trading location individually. If a location is deemed unsafe for this activity, approval may not be granted even if the application complies with the policy guidelines.

Energy Absorbing Bollards (EABs) may be required in certain locations to shield outdoor trading areas from out-of-control vehicles. EAB's will be installed by Council to the manufacturer's standards and the applicant will pay the cost of the supply and installation of EAB's.

The spacing of bollards should provide adequate protection of outdoor trading areas from out of control cars. Spacing of 1.35 metre centres is considered to provide adequate protection; and colour and style of EAB's should complement streetscape character and will be specified by Council.

1.3. Location and Siting

The location and siting of outdoor trading areas must generally be in accordance with the following principles:

- a. Outdoor trading should be associated with existing or proposed premises.
- b. Outdoor trading locations are limited to those areas not required for existing or proposed public use.
- c. Generally, an outdoor trading area must be located directly outside the associated business premises and within the area defined by a perpendicular extension from each side boundary of the premises, between the property line and the kerb.
- d. An outdoor trading area must generally be located along the shop front and allow a clear movement path along the kerb. This principle ensures unobstructed movement along footpaths for all user groups, including the visually impaired who will be guided by tactile pavers designed for this purpose. Some unusual circumstances may require the trading area to be allocated along the kerb and the pedestrian movement path along the shop front in which case the visually impaired will be guided by the front façade of the building if no tactile pavers are present. Where distance between verandah posts and shop front is greater than 4.5m Council may allow the outdoor trading area to be located both adjacent the shop front and along the kerb with a central footpath. In this uncommon scenario outdoor trading areas must be evenly distributed and the footpath is to be measured from the edge of trading areas.

- e. Outdoor trading areas should be well set back from intersections of major streets carrying substantial amounts of traffic to ensure patron's safety and unobstructed pedestrian movement at crossing points. The location of pedestrian ramps and clear access to those ramps for people in wheelchairs must also be considered in the location of outdoor dining areas.

1.4. Amenity and Appearance

An outdoor trading area must relate to its surroundings, to protect and enhance the urban, heritage, streetscape appearance and character, including the quality of built form.

Outdoor trading areas should make use of existing verandahs to provide shade and shelter or else provide umbrellas, canopies and awnings as an alternative when there are no verandahs.

1.5. Heritage Buildings and Outdoor Trading

The design and location of outdoor trading areas adjacent to or near places of State or Local heritage value must be compatible with the heritage significance of the place so as not to detract from that significance.

1.6. Footpath Widening

Where outdoor trading is located on a protuberance additional protection may be required with the placement of Energy Absorbing Bollards, fixed glass screens or planters. These, together with umbrellas, require approval at the time of applying for an Outdoor Trading Permit.

1.7. Advertising

Any advertising is subject to Council approval, and must be in accordance with Council's policies and guidelines.

1.8. Lighting

Adequate lighting must be provided where outdoor trading occurs outside daylight hours, to ensure safety and amenity for patrons and pedestrians. All lighting must be vandal resistant, glare free, and designed to the relevant Australian Standards. All external electrical works are to be undertaken by a licensed electrician.

1.9. Toilets

Sanitary facilities within the adjoining/supporting premises must meet the requirements as set out in Table F2.3 of Volume 1 of the Building Code of Australia for the combined outdoor and indoor seating capacity (i.e. as if the outdoor trading seating capacity forms part of the indoor seating capacity).

1.10. Parking

No additional on-site carparks or cash contribution in accordance with Council's Carpark Fund will be required as a result of the additional outdoor trading area.

2. Siting Criteria

2.1. Outdoor trading is not permitted in the following locations:

- 2.1.1. Adjacent to bus zones and taxi zones;
- 2.1.2. Adjacent to designated disabled parking spaces;
- 2.1.3. Adjacent a roadway or footpath construction zone during the project period.

2.2. Outdoor Trading Beyond Permit Holder’s Boundary

Consideration will be given to allowing outdoor trading areas to extend along the footpath into areas that are not directly outside the associated business subject to written permission from the operator and the property owner of the adjacent business.

If such permission is withdrawn or the adjacent business change operation, outdoor trading must be removed from this area immediately.

The permit holder shall take responsibility for any liability issues which arise and that are associated with the outdoor trading area.

3. Layout, Design and Appearance of Outdoor Trading Elements

3.1. General

The following principles will apply in the layout and design of outdoor trading elements:

- a. Outdoor trading items should be sturdy and windproof, and without sharp edges or other features likely to cause injury and made of quality materials and be well designed and constructed so as to be attractive, durable and safe to use.
- b. Items should be placed in accordance with the approved plan.
- c. Screens, blinds, and planter boxes must not be placed where they present a barrier and subsequent danger to pedestrians crossing the street or kerbside usage by motorists.
- d. Council’s reserves the right to remove fixed furniture where fixed and semi-fixed furniture are not maintained and kept clean to acceptable standards.

3.2. Setbacks

Minimum setback of Outdoor Trading Items	Distance
From kerb where Outdoor Trading Area is located adjacent to kerbside angle parking bays, parallel parking bays or travel lanes, and where no EAB’s are required.	0.6m
Umbrella canopy edges from kerb (where Outdoor Trading Area is located adjacent to kerbside);	0.6m
Planter boxes from the kerb (where Outdoor Trading Area is located adjacent to kerbside);	0.6m
From kerb where outdoor trading area is located adjacent to kerbside angle parking bays, parallel parking bays or travel lanes, and where EAB’s are required. [Note: Umbrella canopies may extend a maximum of 0.3 metre over the outdoor trading area boundary facing the footpath, except where adjacent to the kerb]	0.6m
From kerb where outdoor trading area is located adjacent to loading or ‘No Parking’ areas and where no EAB’s are required.	1.2m
From kerb where outdoor trading area is located adjacent to loading or ‘No Parking’ areas and where EAB’s are required.	0.9m
From infrastructure items such as a seat, litter bin, light pole, fire hydrant, telephone box and post box, street tree, etc. [Note: If there are trees within the trading area, their pits (exposed root area) are to be kept free of any furniture]	1.0m
Permanent structures such as fixed ground awnings and umbrellas, or glass screens from underground infrastructure (e.g. service openings to sewerage and electricity lines). Removable tables and chairs may be placed over such items.	1.0m

Where the footpath clearance area is located along the kerb the clearance between any outdoor trading item, whether it is fixed or temporary) and any verandah post.	1.5m
Where the footpath clearance area is located along the kerb any screens (to create an enclosed area) whether it is permanently fixed or moveable, from the kerb.	0.6m
From any construction zone. Council reserves the right to cancel the Outdoor Trading Permit to ensure public safety during major construction projects.	3.0m

3.3. Footpath Clearances

Footpath clearance must be in accordance with the approved plan attached to the Outdoor Trading Permit. In most circumstances Council seeks for a consistent footpath location throughout the street (e.g. all shops have footpath located adjacent kerb, etc). Unless shown otherwise on the approved plan attached to the Outdoor Trading Permit, the width of the footpath shall generally be as follows:

- a. Where adjacent to the kerb the width of the footpath shall be 1.2 metres measured from the inside of the verandah posts. If no posts, measured 450mm from roadside of kerb.
- b. Where adjacent to the shop front the width of the footpath shall be 1.5 metres measured from the shop front.
- c. Where located centrally between two evenly distributed outdoor trading areas the width of the footpath shall be 1.8m measured from the edge of trading areas.

3.4. Enclosure

The following principles apply to prevent the proliferation of screens resulting in visual clutter and separating the street space from the footpath space:

- a. Enclosures must be of a lightweight design and construction which can be easily removed to allow access to underground services, footpath construction and maintenance;
- b. Screens are to be installed for weather protection only and not solely for the definition of outdoor trading area. Where an existing adjacent outdoor trading area has permanent glass screens or plastic blinds at right angles to the kerb, a doubling up of screens will not be permitted;
- c. Enclosures will only be allowed where they do not present a safety risk to pedestrian movements and vehicle sight lines, in particular on corners;
- d. Clearance from the ground is required to allow footpath cleaning and stormwater runoff;
- e. Where outdoor trading areas have permanent or temporary enclosures, and between adjoining outdoor trading areas with permanent or temporary enclosures, a 1.5 metre 'gap' is required every 8 metres.
- f. Permanent enclosures are permissible only in the form of glass screens, which provide some protection for patrons from wind, rain and noise.
- g. *Glass screens* are permitted as enclosures provided it can be demonstrated that the width of the footpath is sufficient to accommodate glass screens around furniture. Glass screens are subject to the following:
 - must be designed to reinforce the desired character of the street and related appropriately to the adjacent building;

- must be designed so that their form and structural strength are adequate to meet functional requirements, including wind loads, resistance to vandalism and impact from pedestrians (certification from a suitably qualified person is required);
 - must be simple in design to avoid cluttering the street;
 - may incorporate artistic treatments (such as etching);
 - must have a maximum height of 1.5 metres and a minimum clearance from the pavement of 0.3 metres; and
 - must be provided with a horizontal contrasting colour strip at approximately 1.4 metres above the footpath unless the screen is marked by either advertising or a decorative pattern.
- h. *Plastic Blinds* are not permitted as enclosures unless:
- it is installed under verandahs or balconies where such blinds appear as ancillary to the more permanent verandah or balcony. If not installed under the verandah or balcony as indicated above, can assist in providing temporary weather protection for outdoor trading patrons only;
 - must be clear and of quality plastic (i.e. not opaque, coloured or decorated);
 - must have a horizontal contrasting colour strip at approximately 1.4 metres above the footpath;
 - must be rolled up or removed outside trading hours or when the weather does not warrant their use; and
 - must be removed when considered by Council to have a detrimental impact on the streetscape or when it appears to be a nuisance or safety hazard.
- i. *Canvas screens* may be allowed as an enclosure, subject to the following:
- must be freestanding and removable, made of a light weight frame for ease of instalment and removal, and be securely fastened when in use;
 - must not exceed 0.9 metres in height;
 - must be positioned parallel to the kerb;
 - must be of a single colour; and
 - must be removed outside trading hours.
- j. Any screens along the kerb must be set back in accordance with the provisions under Section 3.3 above.

3.5. Permanent Umbrellas/Retractable Awnings

Permanent umbrellas and retractable awnings may be appropriate, and are subject to the following requirements:

- do not obstruct pedestrian flows in any way;
- are designed to be legible as part of the street as 'public open space'; and
- must not 'privatise' the public realm.

Retractable awnings may be allowed in minor streets or side lanes, subject to case by case assessment, with consideration of factors such as access by emergency vehicles and water run-off.

Other permanent structures (ie freestanding gazebos, pavilions) are not permitted.

3.6. Removable Umbrellas

Removable umbrellas may be used to provide shade and shelter to patrons and as a visual promotion of the outdoor trading operation provided they:

- are properly secured;
- do not obstruct pedestrian flows
- designed to be legible as part of the street as ‘public open space’; and
- must not ‘privatise’ the public realm.

Removable umbrellas and their bases must be removed and safely stored outside trading hours.

3.7. Planter Boxes

Planter boxes of a high quality may be used to provide further definition of outdoor trading areas and contribute to variety and colour in the street. Planter boxes must not obstruct pedestrian flows, be designed to be legible as part of the street as ‘public open space’ and must not ‘privatise’ the public realm. The following requirements apply:

- a) Must be elevated a minimum of 0.18 metres and a maximum of 0.22 metres above the pavement to allow for drainage;
- b) Where irrigation is provided, approved back flow prevention devices are required, pursuant to E&WS Regulations. Water supply lines are to be UPVC, and placed underneath the footpath at a depth of 0.3 metres;
- c) Planter boxes should be designed so as not to discharge overflow onto the footpath, or be connected to the sewerage system, pursuant to the Environmental Protection Authority’s Storm Water Pollution Prevention Code of General Practice for the General Community;
- d) Overflow from irrigation systems or hand watering must not discharge into the stormwater system, stain pavements, or cause a safety hazard for pedestrians;
- e) It is the permit holder’s responsibility to maintain and clean planter boxes regularly, and to maintain the plants according to the species’ needs;
- f) Plants should be pruned so that they do not exceed 1.2 metres height, or spread in such a way that impedes use within and around the outdoor trading area;
- g) Plants must not be removed from planter boxes after trading hours as empty planter boxes are unsightly and may attract littering and undesirable behaviour.
- h) Empty planter boxes must be removed or replanted immediately;
- i) Failure to keep planter boxes maintained to an acceptable standard will result in the permit holder being directed to remove them; and
- j) Should the outdoor trading area cease to operate, the permit holder must remove planter boxes prior to vacating the site at their own cost.

3.8. Gas Heaters

Gas heaters may be temporarily located within the designated outdoor trading area to provide additional comfort for patrons. The following requirements apply:

- a) Only approved gas heaters that meet Australian Standards and Occupational Health and Safety requirements may be used. Information on the design approval of the item must be provided when applying for a permit;
- b) Installation and operation of gas heaters should be in accordance with AS 4565-2001 (AG 405) Radiant Gas Heaters;
- c) Gas heaters must:
 - Be self-contained and freestanding but securely fixed and stable.
 - Be placed within the demarcated outdoor trading permit area and all clearances and setbacks specified for outdoor trading elements apply;

- Not be placed where they may pose a fire or safety hazard (i.e. close proximity to plastic blinds);
- Be removed outside trading hours.

3.9. Alfresco or Café Blinds

The use of Alfresco or Café Blinds is **not** permitted without Council approval and is subject to compliance with the following conditions:

- Blinds must be of clear, quality plastic (i.e. not coloured or decorated). No advertising is allowed on the blinds. Plastic blinds that are marked or opaque must be removed and replaced at the permit holder's cost;
- Plastic blinds must have a clearly marked contrasting colour strip at 1.4 metres above the footpath to ensure visibility to vision-impaired people;
- Blinds must be positioned to allow for pedestrian amenity, including refuge from traffic, and with regard to traffic sight lines, particularly on corners;
- Blinds must not detrimentally impact upon the significance of heritage places and where applicable, supporting structures make use of heritage colouring;
- Blinds are not permitted adjacent taxi ranks, loading or no parking zones;
- Blinds must be set back at least 1.0 metre from infrastructure and street furniture and at least 1.8 metres from pedestrian crossings;
- Blinds must be mounted on the inside of the verandah post and be rolled up in a manner that it is not visible from the street when not in use (e.g. it must be obscured by under verandah advertising signs facing the roads or the verandah support structure). Blinds are not appropriate for use with canopies or verandahs above 4.0 metres in height;
- Blinds must have a minimum clearance above the pavement of 0.3 metres for water runoff purposes;
- Where two adjoining outdoor dining areas have blinds or screens, a 1.5 metre gap is required every 8.0 metres;
- Blinds must be fixed firmly in position when down to avoid extensive 'flapping', so that any sharp exposed plastic edges are protected. Ground level restraints between posts are not allowed as they could be a tripping hazard and damage Council infrastructure;
- Blinds must be rolled up or removed outside trading hours or when the weather does not warrant their use; as frequently as possible to avoid 'closure' and cluttering of the streetscape;
- Permit holders are required to maintain the blinds in good order;
- The form and structural strength of the blinds (and any structure to which the blinds are to be fixed) must be adequate to meet functional needs including wind loads, resistance to vandalism and impact from pedestrians;
- Blinds must be designed and located in accordance with any government legislation associated with passive smoking in outdoor areas (such legislation to take precedence should a conflict arise);
- Blinds must be installed (or removed when instructed to do so) as well as maintained in a good condition at no cost to Council;
- The Permit holder must ensure that the blinds, when installed and in use, do not cause a distraction to pedestrians or motorists and do not become a nuisance or annoyance due to unsteadiness during windy conditions; and
- No additional structures will be allowed between existing verandah posts to accommodate the blinds.